



House of Representatives

General Assembly

File No. 729

January Session, 2015

Substitute House Bill No. 7029

House of Representatives, April 23, 2015

The Committee on Judiciary reported through REP. TONG of the 147th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING PROBATE COURT OPERATIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 45a-20 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2015*):

3 When a three-judge court is appointed by the Probate Court
4 Administrator under section 45a-705a, as amended by this act, the
5 administrator may pay from the fund authorized under section 45a-82
6 a per diem rate not to exceed two hundred fifty dollars for each judge
7 that has been cited in, [other than the judge in whose district the
8 matter is being heard,] provided such payment under this section,
9 when combined with the compensation that the judge receives as a
10 judge of probate of the district to which the judge was elected, does not
11 exceed the compensation provided for a judge of probate under
12 subdivision (4) of subsection (a) of section 45a-95a. Such payment shall
13 be made in accordance with regulations promulgated by the Probate
14 Court Administrator.

15 Sec. 2. Section 17a-76 of the general statutes is repealed and the
16 following is substituted in lieu thereof (*Effective October 1, 2015*):

17 (a) [Application] An application for commitment of a mentally ill
18 child to a hospital for mental illness shall be [made to the court of
19 probate] filed in the Probate Court in the district in which such child
20 resides, or when his or her place of residence is out of state or
21 unknown, the district in which he or she may be at the time of filing
22 the application, except in cases where it is otherwise expressly
23 provided by law. In any case in which the child is hospitalized under
24 sections 17a-75 to 17a-83, inclusive, and an application for the
25 commitment of such child is filed in accordance with the provisions of
26 sections 17a-75 to 17a-83, inclusive, the jurisdiction shall be vested in
27 the [court of probate] Probate Court for the district in which the
28 hospital where such child is a patient is located. In the event that an
29 application has previously been filed in another [court of probate]
30 Probate Court with respect to the same confinement, no further action
31 shall be taken on such previous application. Notwithstanding the
32 provisions of section 45a-7, if the child is confined to a hospital outside
33 the district of the [court of probate] Probate Court in which the
34 application for the child's commitment was made, the [judge of]
35 probate judge from the district where the application was filed shall
36 have jurisdiction to hold the hearing on such commitment at the
37 hospital where such child is hospitalized. The court shall exercise
38 jurisdiction only upon written application alleging that such child
39 suffers from a mental disorder and is in need of treatment. Such
40 application may be [made] filed by any person, and shall include the
41 name and address of the hospital for mental illness to which the child's
42 commitment is being sought and shall include the name, address and
43 telephone number of any attorney appointed for the child by the
44 Superior Court pursuant to section 46b-129.

45 (b) Any application for commitment of any child under sections 17a-
46 75 to 17a-83, inclusive, shall be transferred from the [court of probate]
47 Probate Court where it has been filed to the superior court of
48 appropriate venue upon motion of any legal party except the

49 petitioner.

50 (c) The motion for such transfer shall be filed with the [court of
51 probate] Probate Court prior to the beginning of any hearing on the
52 merits. The moving party shall send copies of such motion to all
53 parties of record. The court shall grant such motion the next business
54 day after its receipt by the court. Immediately upon granting the
55 motion, the clerk of the court shall transmit by certified mail the
56 original file and papers to the superior court having jurisdiction. All
57 parties to the proceeding shall be notified of the date on which the file
58 and papers were transferred.

59 (d) The [court of probate] Probate Court shall appoint an attorney
60 for such child from the panel of attorneys established by subsection (b)
61 of section 17a-498 on the next business day after receipt of the
62 application, and as soon as reasonably possible shall appoint
63 physicians as required under section 17a-77, which appointments shall
64 remain in full force and effect notwithstanding the fact that the matter
65 has been transferred to the Superior Court.

66 [(e) On any matter not transferred to the Superior Court in
67 accordance with this section, upon the motion of the child for whom
68 application has been made, or his or her counsel, or the judge of
69 probate having jurisdiction over such application, filed not later than
70 three days prior to any hearing scheduled on such application, the
71 Probate Court Administrator shall appoint a three-judge court from
72 among the several judges of probate to hear such application. Such
73 three-judge court shall consist of at least one judge who is an attorney
74 at law admitted to practice in this state. The judge of the court of
75 probate having jurisdiction over such application under the provisions
76 of this section shall be a member, provided such judge may disqualify
77 himself or herself in which case all three members of such court shall
78 be appointed by the Probate Court Administrator. Such three-judge
79 court when convened shall have all the powers and duties set forth
80 under sections 17a-75 to 17a-83, inclusive, and shall be subject to all of
81 the provisions of law as if it were a single-judge court. No such child

82 shall be involuntarily hospitalized without the vote of at least two of
83 the three judges convened under the provisions of this section. The
84 judges of such court shall designate a chief judge from among their
85 members. All records for any case before the three-judge court shall be
86 maintained in the court of probate having jurisdiction over the matter.]

87 Sec. 3. Section 17a-497 of the general statutes is repealed and the
88 following is substituted in lieu thereof (*Effective October 1, 2015*):

89 [(a)] The jurisdiction of the commitment of a person with psychiatric
90 disabilities to a hospital for psychiatric disabilities shall be vested in
91 the [court of probate] Probate Court for the district in which such
92 person resides or, when his or her place of residence is out of the state
93 or unknown, in which he or she may be at the time of filing the
94 application, except in cases where it is otherwise expressly provided
95 by law. In any case in which the person is hospitalized in accordance
96 with the provisions of sections 17a-498, 17a-502 or 17a-506, and an
97 application for the commitment of such person is filed in accordance
98 with the provisions of said sections, the jurisdiction shall be vested in
99 the [court of probate] Probate Court for the district in which the
100 hospital where such person is a patient is located. In the event that an
101 application has been previously filed in another [probate court]
102 Probate Court with respect to the same confinement, no further action
103 shall be taken on such prior application. If the respondent is confined
104 to a hospital, notwithstanding the provisions of section 45a-7, the
105 [judge of] probate judge from the district where the application was
106 filed shall hold the hearing on such commitment at the hospital where
107 such person is confined, if in the opinion of at least one of the
108 physicians appointed by the court to examine him it would be
109 detrimental to the health and welfare of the respondent to travel to the
110 [court of probate] Probate Court where the application was filed or if it
111 could be dangerous to the respondent or others for him to travel to
112 such court. [Courts of probate] The Probate Court shall exercise such
113 jurisdiction only upon written application alleging in substance that
114 such person has psychiatric disabilities and is dangerous to himself or
115 herself or others or gravely disabled. Such application may be [made]

116 filed by any person and, if any person with psychiatric disabilities is at
117 large and dangerous to the community, the first selectman or chief
118 executive officer of the town in which he or she resides or in which he
119 or she is at large shall make such application.

120 [(b) Upon the motion of any respondent or his or her counsel, or the
121 judge of probate having jurisdiction over such application, filed not
122 later than three days prior to any hearing scheduled on such
123 application, the Probate Court Administrator shall appoint a three-
124 judge court from among the several judges of probate to hear such
125 application. Such three-judge court shall consist of at least one judge
126 who is an attorney-at-law admitted to practice in this state. The judge
127 of the court of probate having jurisdiction over such application under
128 the provisions of this section shall be a member, provided such judge
129 may disqualify himself in which case all three members of such court
130 shall be appointed by the Probate Court Administrator. Such three-
131 judge court when convened shall have all the powers and duties set
132 forth under sections 17a-75 to 17a-83, inclusive, 17a-450 to 17a-484,
133 inclusive, 17a-495 to 17a-528, inclusive, 17a-540 to 17a-550, inclusive,
134 17a-560 to 17a-576, inclusive, and 17a-615 to 17a-618, inclusive, and
135 shall be subject to all of the provisions of law as if it were a single-
136 judge court. No such respondent shall be involuntarily confined
137 without the vote of at least two of the three judges convened
138 hereunder. The judges of such court shall designate a chief judge from
139 among their members. All records for any case before the three-judge
140 court shall be maintained in the court of probate having jurisdiction
141 over the matter as if the three-judge court had not been appointed.]

142 Sec. 4. Subsection (c) of section 19a-221 of the general statutes is
143 repealed and the following is substituted in lieu thereof (*Effective*
144 *October 1, 2015*):

145 (c) A person ordered isolated or quarantined under this section shall
146 be isolated or quarantined in a place designated by the director of
147 health until such time as such director determines such person no
148 longer poses a substantial threat to the public health or is released by

149 order of a [probate court] Probate Court for the district in which such
150 person is isolated or quarantined. Any person who desires treatment
151 by prayer or spiritual means without the use of any drugs or material
152 remedies, but through the use of the principles, tenets or teachings of
153 any church incorporated under chapter 598, may be so treated during
154 such person's isolation or quarantine in such place.

155 Sec. 5. Subsection (e) of section 19a-221 of the general statutes is
156 repealed and the following is substituted in lieu thereof (*Effective*
157 *October 1, 2015*):

158 (e) Jurisdiction shall be vested in the [court of probate] Probate
159 Court for the district in which such person resides or is isolated or
160 quarantined. [The appeal shall be heard by the judge of probate for
161 such district, except that on motion of the respondent for appointment
162 of a three-judge court, the Probate Court Administrator shall appoint a
163 three-judge court from among the several judges of probate to conduct
164 the hearing. Such three-judge court shall consist of at least one judge
165 who is an attorney-at-law admitted to practice in this state. Such three-
166 judge court when convened shall be subject to all of the provisions of
167 law as if it were a single-judge court. The isolation or quarantine of a
168 person under this section shall not be ordered by the court without the
169 vote of at least two of the three judges convened hereunder. The
170 judges of such court shall designate a chief judge from among their
171 members. All records for any case before the three-judge court shall be
172 maintained in the court of probate having jurisdiction over the matter
173 as if the three-judge court had not been appointed.]

174 Sec. 6. Section 19a-265 of the general statutes is repealed and the
175 following is substituted in lieu thereof (*Effective October 1, 2015*):

176 (a) As used in this section:

177 (1) "Active tuberculosis" means (A) a specimen has been taken from
178 a pulmonary, laryngeal or other airway source, has tested positive for
179 tuberculosis and the person tested has not subsequently completed a
180 standard recommended course of medication for tuberculosis, (B) a

181 specimen from an extrapulmonary source has tested positive for
182 tuberculosis and there is clinical evidence or clinical suspicion of
183 pulmonary tuberculosis and the person tested has not subsequently
184 completed a standard recommended course of medication for
185 tuberculosis, or (C) where sputum smears or cultures are unobtainable,
186 radiographic evidence, in addition to current clinical or laboratory
187 evidence, is sufficient to establish a medical diagnosis of pulmonary
188 tuberculosis for which treatment is indicated and the person diagnosed
189 has not subsequently completed a standard recommended course of
190 medication for tuberculosis.

191 (2) "Infectious tuberculosis" means tuberculosis disease in a
192 communicable or infectious stage as determined by chest radiograph,
193 the bacteriologic examination of body tissues or secretions, or other
194 diagnostic procedures. A person is considered infectious to others until
195 such time as sputum smears from a pulmonary, laryngeal or other
196 airway source collected on three consecutive days have tested negative
197 for tuberculosis and the person shows significant clinical
198 improvement, such as the resolution of cough or fever.

199 (3) "Suspected of having active tuberculosis" means a person has
200 signs or symptoms of tuberculosis but diagnostic studies have not
201 been completed.

202 (4) "Nonadherent" means not taking tuberculosis medications as
203 prescribed or not following the recommendations of the attending
204 physician or health officer for the management of tuberculosis.

205 (5) "Enablers" means anything that helps the patient to more readily
206 complete therapy including, but not limited to, assistance with
207 transportation.

208 (6) "Incentive" means anything that motivates the patient to adhere
209 to treatment including, but not limited to, food or coupons.

210 (7) "Directly observed therapy" means a course of treatment for
211 tuberculosis in which the prescribed antituberculosis medication is

212 administered to the person or ingested by the person under direct
213 observation, as specified by the local director of health.

214 (b) The health care provider responsible for the treatment of any
215 person with active tuberculosis shall devise, with the assistance and
216 acknowledgment of that person and the approval of the director of
217 health of the municipality in which the person with tuberculosis
218 resides or, in the case of disagreement between the health care
219 provider and the director of health, the Commissioner of Public
220 Health, an appropriate individualized plan of treatment tailored to the
221 person's medical and personal needs and identifying the method for
222 effective treatment and prevention of transmission. The director of
223 health shall provide or ensure the provision of such enablers and
224 incentives as are within his or her means to provide and are reasonably
225 appropriate in the individual situation to help the person to complete
226 his or her course of treatment. In the event that the person with active
227 tuberculosis is hospitalized or in state custody, the director of health
228 shall be notified as required by section 19a-215, and the individualized
229 plan of treatment shall be approved by the director prior to discharge,
230 provided such discharge shall not be delayed more than twenty-four
231 hours, excluding weekends, solely because of delay in obtaining this
232 approval.

233 (c) If any town, city or borough director of health determines that
234 the public health is substantially and imminently endangered by a
235 person with or suspected of having active tuberculosis, [he] the
236 director of health may take the following actions as reasonably
237 necessary to protect the public health: (1) Issue a warning stating that
238 the person should have a physician's examination for tuberculosis to a
239 person who has active tuberculosis or who is suspected of having
240 active tuberculosis when that person is unable or unwilling voluntarily
241 to submit to such examination despite demonstrated efforts to educate
242 and counsel the person about the need for such examination; (2) issue
243 a warning stating that the person should complete an appropriate
244 prescribed course of medication for tuberculosis when that person has
245 active tuberculosis but is unwilling or unable to adhere to an

246 appropriate prescribed course of medication despite a demonstrated
247 effort to educate and counsel the person about the need to complete
248 the prescribed course of treatment and the offering of such enablers
249 and incentives as are reasonably appropriate to facilitate the
250 completion of treatment by that person; (3) issue a warning stating that
251 the person should follow a course of directly observed therapy for
252 tuberculosis that should be given in such a manner as shall minimize
253 the time and financial burden on the person given that person's
254 individual circumstances, when that person has active tuberculosis,
255 has been nonadherent to treatment for it and is unwilling or unable
256 otherwise to adhere to an appropriate prescribed course of medication
257 for tuberculosis despite a demonstrated effort to educate and counsel
258 the person about the need to complete the course of treatment and the
259 provision of such enablers and incentives to the person as are
260 reasonably appropriate to facilitate the completion of treatment by that
261 person; (4) issue an emergency commitment order which shall extend
262 for no more than ninety-six hours that authorizes the removal to or
263 detention in a hospital or other medically-appropriate setting of a
264 person: (A) Who has active tuberculosis that is infectious or who
265 presents a substantial likelihood of having active tuberculosis that is
266 infectious based upon epidemiologic, clinical, radiographic evidence
267 and laboratory test results; (B) who poses a substantial and imminent
268 likelihood of transmitting tuberculosis to others because of his or her
269 inadequate separation from others, based on a physician's professional
270 judgment using recognized infection control principles; (C) who is
271 unwilling or unable to behave so as not to expose others to risk of
272 infection from tuberculosis despite a demonstrated effort to educate
273 and counsel the person about the need to avoid exposing others and
274 required contagion precautions; (D) who has expressed or
275 demonstrated an unwillingness to adhere to the prescribed course of
276 treatment that would render the person noninfectious despite being
277 educated and counseled about the need to do so and being offered
278 such enablers and incentives as are reasonably appropriate to facilitate
279 the completion of treatment; and (E) for whom emergency
280 commitment is the least restrictive alternative to protect the public

281 health. When issuing an emergency commitment order, the director of
282 health may direct a police officer or other designated transport
283 personnel to immediately transport the person with tuberculosis as so
284 ordered by the director of health. The police officer shall take into
285 custody and isolate the person in such a manner as required by the
286 director of health. The director of health shall notify the police officer
287 or other personnel concerning any necessary infection control
288 procedures; (5) petition the Probate Court for a judicial commitment
289 order that authorizes the removal to or detention in a hospital or other
290 medically-appropriate setting for the purposes of facilitating
291 completion of a prescribed course of treatment for tuberculosis of a
292 person: (A) Who has active tuberculosis; (B) who is unwilling or
293 unable to adhere to an appropriate prescribed course of treatment for
294 tuberculosis despite a demonstrated effort to educate and counsel the
295 person about the need to complete the course of treatment and to
296 provide such enablers and incentives to the person as are reasonably
297 appropriate to facilitate the completion of treatment by that person; (C)
298 who has demonstrated a pattern of persistent nonadherence to
299 treatment for tuberculosis; (D) for whom commitment for the purposes
300 of completion of the prescribed course of treatment for active
301 tuberculosis is necessary to prevent the development of drug-resistant
302 tuberculosis organisms; and (E) for whom commitment for the
303 purpose of treatment for active tuberculosis is the least restrictive
304 course of action available to protect the public health in that other less
305 restrictive alternatives to encourage that person's adherence to the
306 prescribed course of treatment for tuberculosis have failed.

307 (d) Any warning or order issued by the director under subdivisions
308 (1) to (4), inclusive, of subsection (c) of this section, or a petition under
309 subdivision (5) of subsection (c) of this section, shall be in writing
310 setting forth: (1) The name of the person who is the subject of the
311 warning, order or petition; (2) the factual basis for the director's
312 professional judgment that the person has active tuberculosis or, in the
313 case of a warning concerning examination, is suspected of having
314 active tuberculosis; (3) in the case of a warning concerning
315 examination under subdivision (1) of subsection (c) of this section, the

316 efforts that have been made to educate and counsel the person about
317 the need for examination, the medical and legal consequences of
318 failing to agree to it and the factual basis for the director's professional
319 judgment that the person is unable or unwilling voluntarily to submit
320 to such examination; (4) in the case of warnings and orders under
321 subdivisions (2) to (4), inclusive, of subsection (c) of this section and a
322 petition under subdivision (5) of subsection (c) of this section, the
323 efforts that have been made to educate and counsel the person about
324 the need to complete the appropriate prescribed course of treatment
325 and the medical and legal consequences of failing to do so, a
326 description of the enablers and incentives that have been offered or
327 provided to the person, and the factual basis for the director's
328 professional judgment that the person is unable or unwilling
329 voluntarily to adhere to the appropriate prescribed course of
330 treatment; (5) in the case of an emergency commitment order under
331 subsection (c) of this section, the factual basis for the director's
332 professional judgment that: (A) The person is infectious or presents a
333 substantial likelihood of being infectious; (B) the person poses a
334 substantial and imminent likelihood of transmitting tuberculosis to
335 others; (C) the person is unable or unwilling to behave so as not to
336 expose others to risk of infection; and (D) emergency commitment is
337 the least restrictive alternative available to protect the public health; (6)
338 in the case of a petition for commitment under subsection (c) of this
339 section, the factual basis for the director's professional judgment that:
340 (A) The person has been persistently nonadherent to treatment for
341 tuberculosis; (B) commitment for the purpose of treatment for active
342 tuberculosis is necessary to prevent the development of drug-resistant
343 tuberculosis organisms; (C) commitment for the purpose of treatment
344 for active tuberculosis is the least restrictive alternative to protect the
345 public health in that other alternatives to encourage that person's
346 adherence to treatment have failed. Any warnings or orders issued
347 pursuant to subsections (c) and (k) of this section shall specify the
348 period of time that the warning or order is to remain effective,
349 provided: (i) Any order authorizing examination for tuberculosis shall
350 not continue beyond the minimum period of time required, with the

351 exercise of all due diligence, to make a medical determination of
352 whether the person who has active tuberculosis is infectious or
353 whether the person who is suspected of having tuberculosis has active
354 tuberculosis; (ii) any warning concerning treatment or directly
355 observed therapy shall not continue beyond the conclusion of the
356 prescribed course of antituberculosis treatment; and (iii) any order
357 authorizing emergency commitment shall not exceed ninety-six hours.
358 Any order for emergency commitment or petition for commitment
359 shall specify the place of confinement, which shall be in a facility
360 approved by the Commissioner of Public Health and which shall not
361 be a prison, jail or other enclosure where those charged with a crime
362 are incarcerated unless the person who is the subject of the order is
363 being held on a criminal charge. [Within] Not later than twenty-four
364 hours [of the] after the issuance of the order or petition, the director of
365 health shall notify the Commissioner of Public Health that such an
366 order or petition has been issued.

367 (e) The director of health may [make application to the probate
368 court] petition the Probate Court for the district in which a person
369 subject to a warning issued under subdivision (1) of subsection (c) of
370 this section resides for an enforcement order. A person concerning
371 whom [said application] such petition is made shall have the right to a
372 court hearing which shall be held by the [probate court within three
373 business days of receipt of such application] Probate Court not later
374 than three days, excluding Saturdays, Sundays and holidays, after the
375 date of receipt of such petition. The hearing shall be held to determine:
376 (1) If the person has active tuberculosis or is suspected of having active
377 tuberculosis; (2) if the person is unable or unwilling to be examined
378 voluntarily; (3) if efforts have been made to educate the person about
379 the need for examination; (4) whether the order is necessary and is the
380 least restrictive alternative to protect the public health. The Probate
381 Court may issue a warrant for the apprehension of a person who is the
382 subject of an order for examination, and a police officer for the town in
383 which such court is located, or if there is no such police officer then the
384 state police or such other officer as the court may determine, shall
385 deliver the person to a facility for examination as directed by the

386 health director.

387 (f) Immediately upon issuance of an emergency commitment order
388 under subdivision (4) of subsection (c) of this section, the director of
389 health shall petition the [probate court] Probate Court for the district in
390 which the person who is subject to the order resides to determine
391 whether such commitment shall be continued. [The petition shall be
392 heard by the judge of probate for such district, except that on motion
393 of the respondent or the judge of probate for appointment of a three-
394 judge court, the Probate Court Administrator shall appoint a
395 three-judge court from among the several judges of probate to conduct
396 the hearing. Such three-judge court shall consist of at least one judge
397 who is an attorney-at-law admitted to practice in this state. The judge
398 of probate having jurisdiction under the provisions of this section shall
399 be a member, provided such judge may disqualify himself or herself,
400 in which case all three members of such court shall be appointed by
401 the Probate Court Administrator. Such three-judge court when
402 convened shall be subject to all of the provisions of law as if it were a
403 single-judge court. The involuntary confinement of a person under this
404 section by a three-judge court shall not be ordered by the court
405 without the vote of at least two of the three judges convened
406 hereunder. The judges of such court shall designate a chief judge from
407 among their members. All records for any case before the three-judge
408 court shall be maintained by the court of probate having jurisdiction
409 over the matter as if the three-judge court had not been appointed. The
410 hearing, whether before a one-judge or three-judge court,] The hearing
411 shall be held [within] not later than ninety-six hours, excluding
412 Saturdays, Sundays and legal holidays, after the date of the issuance of
413 such order of emergency commitment and the court shall cause such
414 advanced notice as it directs thereof to be given to the person who is
415 the subject of the order and such other persons as it may direct. The
416 court shall determine: (1) If the person has active tuberculosis that is
417 infectious or presents a substantial likelihood of having active
418 tuberculosis that is infectious based upon epidemiologic, clinical, or
419 radiographic evidence, and laboratory test results; (2) if the person
420 poses a substantial and imminent likelihood of transmitting

421 tuberculosis to others because of inadequate separation from others,
422 based on a physician's professional judgment using recognized
423 infection control principles; (3) if the person is unwilling or unable to
424 behave so as to not expose others to risk of infection from tuberculosis;
425 (4) if efforts have been made to educate and counsel the person about
426 the need to avoid exposing others and required contagion precautions;
427 (5) if the person has expressed or demonstrated an unwillingness to
428 adhere to the prescribed course of treatment that would render the
429 person noninfectious; (6) if efforts have been made to educate and
430 counsel about the need to complete treatment and if reasonably
431 appropriate enablers and incentives have been offered to facilitate the
432 completion of treatment; and (7) whether the order is necessary and is
433 the least restrictive alternative to protect the public health.

434 (g) A petition by a director of health for a commitment order
435 pursuant to subdivision (5) of subsection (c) of this section shall be
436 heard by the [probate court] Probate Court for the district in which the
437 subject of such petition resides [within] not later than three business
438 days, excluding Saturdays, Sundays and holidays, after the date of
439 receipt of such petition. [or, if a motion is made for appointment of a
440 three-judge court, within three business days of the filing of such
441 motion. Upon the motion of the respondent or of the judge of probate
442 for appointment of a three-judge court, the Probate Court
443 Administrator shall appoint a three-judge court from among the
444 several judges of probate to conduct the hearing. Such three-judge
445 court shall consist of at least one judge who is an attorney-at-law
446 admitted to practice in this state. The judge of probate having
447 jurisdiction under the provisions of this section shall be a member,
448 provided such judge may disqualify himself, in which case all three
449 members of such court shall be appointed by the Probate Court
450 Administrator. Such three-judge court when convened shall be subject
451 to all of the provisions of law as if it were a single-judge court. The
452 involuntary confinement of a person under this section by a three-
453 judge court shall not be ordered by the court without the vote of at
454 least two of the three judges convened hereunder. The judges of such
455 court shall designate a chief judge from among their members. All

456 records for any case before the three-judge court shall be maintained
457 by the court of probate having jurisdiction over the matter as if the
458 three-judge court had not been appointed.] The court shall cause such
459 advanced notice as it directs thereof to be given to the person who is
460 the subject of the order and such other persons as it may direct. The
461 hearing shall be held to determine: (1) If the person has active
462 tuberculosis; (2) if the person is unwilling or unable to adhere to an
463 appropriate prescribed course of treatment for tuberculosis; (3) if
464 efforts have been made to educate and counsel the person about the
465 need to complete the course of treatment; (4) if reasonably appropriate
466 enablers and incentives have been provided to the person to facilitate
467 the completion of treatment by that person; (5) if the person has a
468 demonstrated pattern of persistent nonadherence to treatment for
469 tuberculosis; (6) if commitment for the purposes of completion of the
470 prescribed course of treatment for active tuberculosis is necessary to
471 prevent the development of drug-resistant tuberculosis organisms; and
472 (7) whether the order is necessary and is the least restrictive available
473 to protect the public health in that other less restrictive alternatives to
474 encourage that person's adherence to the prescribed course of
475 treatment for tuberculosis have failed. The Probate Court may issue a
476 warrant for the apprehension of a person who is the subject of an order
477 for commitment, and a police officer for the town in which such court
478 is located, or if there is no such police officer then the state police or
479 such other officer as the court may determine, shall deliver the person
480 to the place for confinement as determined by the health director and
481 as specified in subsection (d) of this section.

482 (h) All orders by health directors and all [applications or] petitions
483 for a hearing under this section shall be hand-delivered to the person
484 subject to the order as quickly as reasonably possible and shall inform
485 [him] such person that: (1) [He or his] The person or the person's
486 representative has a right to be present at the hearing; (2) [he] the
487 person has a right to counsel and, if indigent or otherwise unable to
488 pay for or to obtain counsel, [he] the person has a right to have counsel
489 appointed to represent him or her; (3) the court shall have the right to
490 appoint and hear additional expert witnesses at the expense of the

491 petitioner; (4) [he] the person has a right to be present and to cross-
492 examine witnesses testifying at the hearing; (5) the proceedings before
493 the Probate Court shall be recorded and shall be transcribed if [he] the
494 person appeals or files a writ of habeas corpus; (6) the proceedings
495 before the court shall be confidential and shall not be disclosed unless
496 [he or his] the person or the person's legal representative requests, or
497 the Probate Court so orders for good cause shown; (7) [he] the person
498 has a right to appeal an order of the Probate Court to the Superior
499 Court; and (8) [he] the person has a right to [apply to] petition the
500 Probate Court to terminate or modify an order it has made under
501 subsection (k) of this section, as provided in subsection (l) of this
502 section. If the court finds that such person is indigent or otherwise
503 unable to pay for or to obtain counsel, the court shall appoint counsel
504 for him or her, unless such person refuses counsel and the court finds
505 that the person understands the nature of his or her refusal. If the
506 person does not select his or her own counsel, or if counsel selected by
507 the person refuses to represent him or her, or is not available for such
508 representation, the court shall appoint counsel for the person from a
509 panel of attorneys admitted to practice in this state provided by the
510 Probate Court Administrator in accordance with regulations
511 promulgated by the Probate Court Administrator in accordance with
512 section 45a-77. The reasonable compensation of appointed counsel for
513 a person who is indigent or otherwise unable to pay for counsel shall
514 be established by, and paid from funds appropriated to, the Judicial
515 Department, however, if funds have not been included in the budget
516 of the Judicial Department for such purposes, such compensation shall
517 be established by the Probate Court Administrator and paid from the
518 Probate Court Administration Fund.

519 (i) Prior to any hearing under this section, such person or [his] the
520 person's counsel shall be afforded access to all the person's medical
521 records including, without limitation, hospital records if such person is
522 hospitalized. If such person is hospitalized at the time of the hearing,
523 the hospital shall provide [the] such person or [his] the person's
524 counsel access to all records in its possession relating to the condition
525 of the person. Nothing in this subsection shall prevent timely objection

526 to the admissibility of evidence in accordance with the rules of civil
527 procedure.

528 (j) At any hearing held under this section, the director of health shall
529 have the burden of showing by clear and convincing evidence that: (1)
530 The person has active tuberculosis or, in the case of an examination
531 order, is suspected of having active tuberculosis; (2) in the case of an
532 enforcement order for examination, that efforts have been made to
533 educate and counsel the person about the need for examination and
534 that the person remains unable or unwilling voluntarily to submit to
535 such examination; (3) in the case of an order under subdivision (4) of
536 subsection (c) of this section and a petition under subdivision (5) of
537 said subsection (c), that efforts that have been made to educate and
538 counsel that person about the need to complete the appropriate
539 prescribed course of treatment and that reasonably appropriate
540 enablers and incentives have been offered or provided to the person,
541 and that the person remains unable or unwilling voluntarily to adhere
542 to the appropriate prescribed course of treatment; (4) in the case of
543 continuation of an emergency commitment order under subdivision
544 (4) of subsection (c) of this section that: (A) The person is infectious or
545 presents a substantial likelihood of being infectious, (B) the person
546 poses a substantial and imminent likelihood of transmitting
547 tuberculosis to others, (C) the person is unable or unwilling to behave
548 so as not to expose others to risk of infection and (D) commitment is
549 the least restrictive alternative available to protect the public health; (5)
550 in the case of a petition for commitment under subdivision (5) of
551 subsection (c) of this section, that (A) the person has been persistently
552 nonadherent to treatment for tuberculosis, (B) commitment for the
553 purpose of treatment for active tuberculosis is necessary to prevent the
554 development of drug-resistant tuberculosis organisms, (C)
555 commitment for the purpose of treatment for active tuberculosis is the
556 least restrictive alternative to protect the public health in that other
557 alternatives to encourage said person's adherence to treatment have
558 failed; and (6) the order sought by the director of health is necessary
559 and is the least restrictive alternative to protect the public health.

560 (k) If the court, at such hearing, finds by clear and convincing
561 evidence that the director of health has met the burden of proof set
562 forth in subsection (j) of this section, the court shall: (1) In the case of
563 examination orders: (A) Order such person to be examined; or (B)
564 enter an order with such terms and conditions as the court deems
565 appropriate to protect the public health in the manner least restrictive
566 of the [individual's] person's liberty and privacy; (2) in the case of a
567 continuation of an emergency commitment issued pursuant to
568 subdivision (4) of subsection (c) of this section, (A) enter an order,
569 authorizing the continued commitment of such person only for as long
570 as the person remains infectious and poses a risk of transmission to
571 others, or (B) enter an order with such terms and conditions as the
572 court deems appropriate to protect the public health in the manner
573 least restrictive of the [individual's] person's liberty and privacy; and
574 (3) in the case of a petition for a commitment order for treatment
575 issued pursuant to subdivision (5) of subsection (c) of this section, (A)
576 order the continued commitment, but only for as long as is necessary
577 to complete the prescribed course of treatment or to demonstrate
578 adherence to treatment, or (B) enter an order with such terms and
579 conditions as the court deems appropriate to protect the public health
580 in the manner least restrictive of the [individual's] person's liberty and
581 privacy. If the court, at such hearing, finds that the director of health
582 has failed to meet such burden of proof, the court shall enter no orders,
583 provided, if the person has been subject to an emergency commitment,
584 the court shall order a release from such commitment.

585 (l) Such person may, at any time, move the court to terminate or
586 modify an order made under subsection (k) of this section, in which
587 case a hearing shall be held [within] not later than five business days,
588 excluding Saturdays, Sundays and holidays, after the date of issuance
589 of such order in accordance with this subsection. In addition, the court
590 shall, on its own motion, review at least every six months any order of
591 commitment issued under this section to determine if the conditions
592 that required the commitment or restriction of the person still exist. If
593 the court finds at such hearing, held on motion of the person or on its
594 own motion, that the conditions that warranted the issuance of the

595 order no longer exist, it shall dissolve said order. At such hearing, the
596 director of health shall bear the burden of proof as specified in
597 subsection (j) of this section.

598 (m) Any person aggrieved by an order of the [Court of Probate]
599 Probate Court under this section may take an appeal to the Superior
600 Court. The Probate Court shall cause a recording of any hearing held
601 pursuant to this section to be made, to be transcribed only in the event
602 of [an application] a petition for a writ of habeas corpus or an appeal
603 from the decree rendered hereunder. A copy of such transcript shall be
604 furnished without charge to the appellant or [applicant] petitioner for
605 the writ of habeas corpus whom the [Court of] Probate Court finds
606 unable to pay for the same. In such case, the cost of preparing such
607 transcript shall be paid by the original petitioner.

608 (n) The provisions of this section shall not be construed to permit or
609 require the forcible administration of any medication.

610 (o) All health directors' orders, [applications or] petitions for a
611 hearing, notices of a hearing and proceedings of a hearing under this
612 section shall be kept confidential and shall not be disclosed, except to
613 the parties to the proceeding, or upon the request of the person who is
614 the subject of the order or his legal representative, or upon order of the
615 Probate Court for good cause shown.

616 (p) All health directors' emergency commitment orders and
617 warnings shall be in a language that the person who is the subject of
618 the warning or order can comprehend.

619 (q) The commissioner may adopt, in accordance with chapter 54,
620 such regulations as are necessary to carry out and enforce the
621 provisions of subsection (b) of this section.

622 Sec. 7. Section 45a-705a of the general statutes is repealed and the
623 following is substituted in lieu thereof (*Effective October 1, 2015*):

624 (a) An individual subject to a guardianship or involuntary
625 representation under this chapter may [apply] petition for and is

626 entitled to the benefit of the writ of habeas corpus without having
627 previously exhausted other available remedies including, but not
628 limited to, the right to appeal the order of guardianship or involuntary
629 representation. The question of the legality of such guardianship or
630 involuntary representation shall be determined by the court or judge
631 issuing such writ.

632 (b) A writ of habeas corpus shall be directed to the guardian of the
633 person or the estate of the ward or to the conservator of the conserved
634 person and if illegality or invalidity of the guardianship or involuntary
635 representation is alleged in such writ, a copy shall also be directed to
636 the judge of the court that issued the order as to such claim.

637 (c) [An application] A petition for a writ of habeas corpus under this
638 section shall be brought to either the Superior Court or the [Court of]
639 Probate Court.

640 (d) If such [application] petition has been brought in the [Court of]
641 Probate Court, the Probate Court Administrator shall appoint a three-
642 judge court to hear such [application] petition from among the [judges
643 of] probate judges who are approved to hear such [applications]
644 petitions by the Chief Justice of the Supreme Court, [The] provided
645 the Probate Court Administrator shall not appoint the judge of the
646 [court of probate] Probate Court who issued the order [shall not be] as
647 a member of the three-judge court. No such [application] petition shall
648 be denied without the vote of at least two judges of the three-judge
649 court. The judges of such three-judge court shall designate a chief
650 judge from among their members. The three-judge court shall cause a
651 recording to be made of all [proceeding] proceedings held under this
652 section. The recording shall be part of the court record and shall be
653 made and retained in a manner approved by the Probate Court
654 Administrator. All records for any case before the three-judge court
655 shall be maintained in the [court of probate] Probate Court in which
656 the conservator or guardian was appointed.

657 (e) [Hearing] A hearing held under this section shall be heard not
658 later than ten days, excluding Saturdays, Sundays and holidays, after

659 return of service of the writ.

660 (f) If the court [or judge before whom such a writ is brought]
661 decides that the guardianship or involuntary representation is not
662 illegal, such decision shall be considered a final judgment and subject
663 to appeal.

664 (g) If the court [or judge before whom such case is brought] decides
665 that the guardianship or involuntary representation is not illegal, such
666 decision shall not bar issuance of such a writ again, provided it is
667 claimed that such person is no longer subject to the condition for
668 which the person was conserved or such application is based on a
669 ground different from that relied on in an earlier application. Such writ
670 may be applied for by an individual subject to guardianship or
671 involuntary representation or on the behalf of such individual by any
672 relative, friend or person interested in such individual's welfare.

673 (h) An appeal to the Superior Court of a decision rendered by a
674 three-judge court under this section shall be filed in the judicial district
675 in which the [court of probate] Probate Court that issued the order
676 appointing a guardian or conservator is located or, if the Probate Court
677 that issued the order is located in a probate district that extends into
678 more than one judicial district, in any judicial district in which any part
679 of the probate district is located. Such appeal shall be heard not later
680 than thirty days of the return of service of the appeal.

681 Sec. 8. Subdivision (2) of subsection (a) of section 45a-132 of the
682 general statutes is repealed and the following is substituted in lieu
683 thereof (*Effective October 1, 2015*):

684 (2) No judge or magistrate may appoint a guardian ad litem for (A)
685 a patient in a proceeding under section 17a-543 or 17a-543a, prior to a
686 determination by a [court of probate] Probate Court that the patient is
687 incapable of giving informed consent under either of said sections, or
688 (B) a respondent in a proceeding under sections 45a-644 to 45a-663,
689 inclusive, prior to a determination by a [court of probate] Probate
690 Court that the respondent is incapable of caring for himself or herself

691 or incapable of managing his or her affairs. No judge or magistrate
692 may appoint a guardian ad litem for [an applicant] a petitioner under
693 section 45a-705a, as amended by this act.

694 Sec. 9. Section 45a-123a of the general statutes is repealed and the
695 following is substituted in lieu thereof (*Effective July 1, 2015*):

696 (a) (1) There shall be probate magistrates for the purpose of hearing
697 matters referred pursuant to section 45a-123. Any former [judge of]
698 probate judge under seventy years of age, other than a [judge of]
699 probate judge receiving a retirement allowance under section 45a-40
700 due to permanent and total disability, who is an elector of this state
701 shall be eligible for nomination, appointment or assignment as a
702 probate magistrate.

703 (2) The Probate Court Administrator may nominate former [judges
704 of] probate judges who meet the requirements of this subsection to
705 serve as probate magistrates. The Probate Court Administrator shall
706 provide a list of such nominated former judges to the Chief Justice of
707 the Supreme Court and update the list as necessary. The Chief Justice
708 shall appoint probate magistrates from the list for a term of three years
709 and inform the Probate Court Administrator of such appointments.
710 The Chief Justice, on the recommendation of the Council on Probate
711 Judicial Conduct or the Probate Court Administrator, may suspend or
712 remove a probate magistrate during his or her term for reasonable
713 cause. The Probate Court Administrator shall assign probate
714 magistrates pursuant to section 45a-123 from among the probate
715 magistrates appointed by the Chief Justice.

716 (3) Each probate magistrate shall receive, for each day the probate
717 magistrate is engaged as a probate magistrate, in addition to any
718 retirement salary the probate magistrate is entitled to receive, an
719 amount of fifty dollars per hour, not to exceed two hundred fifty
720 dollars per day, for each day of service. Such service includes, but is
721 not limited to, conducting hearings and preparing a report or
722 amendment to a report pursuant to section 45a-123. Service as a
723 probate magistrate shall not constitute credited service for purposes of

724 health, retirement or other benefits. Amounts paid to a probate
725 magistrate under this subdivision shall be paid from the Probate Court
726 Administration Fund established under section 45a-82.

727 (b) (1) In addition to the probate magistrates appointed pursuant to
728 subsection (a) of this section, there shall be attorney probate referees
729 for the purpose of hearing matters referred pursuant to section 45a-
730 123. Any individual who has been a member of the bar of this state in
731 good standing for at least five years, is an elector of this state and is
732 under seventy years of age shall be eligible for nomination,
733 appointment and assignment as an attorney probate referee.

734 (2) The Probate Court Administrator may nominate individuals
735 who meet the requirements of this subsection as attorney probate
736 referees. Any [judge of] probate judge may submit to the Probate
737 Court Administrator, on such form and in such manner as the Probate
738 Court Administrator prescribes, a recommendation that the Probate
739 Court Administrator nominate a specified individual as attorney
740 probate referee, provided the individual meets the requirements of this
741 subsection. The Probate Court Administrator shall consider any such
742 recommendation prior to making a nomination under this subdivision,
743 but shall not be bound by such recommendation. The Probate Court
744 Administrator shall ensure geographic, racial and ethnic diversity
745 among individuals nominated as attorney probate referee.

746 (3) The Probate Court Administrator shall provide a list of
747 individuals nominated as attorney probate referee to the Chief Justice
748 of the Supreme Court and update the list as necessary. The Chief
749 Justice shall appoint attorney probate referees from the list for a term
750 of three years and inform the Probate Court Administrator of such
751 appointments. The Chief Justice, on the recommendation of the
752 Council on Probate Judicial Conduct or the Probate Court
753 Administrator, may suspend or remove an attorney probate referee
754 during his or her term for reasonable cause. The Probate Court
755 Administrator shall assign attorney probate referees pursuant to
756 section 45a-123 from among the attorney probate referees appointed

757 by the Chief Justice.

758 (4) No attorney probate referee shall receive compensation for his or
759 her duties as an attorney probate referee.

760 [(5) Not later than January 1, 2012, and annually thereafter, the
761 Probate Court Administrator shall submit a report to the Governor and
762 the joint standing committee of the General Assembly having
763 cognizance of matters relating to the judiciary that includes (1) the
764 number of attorney probate referees nominated, appointed and
765 assigned under this subsection during the prior calendar year, and (2)
766 an analysis of the geographic, racial and ethnic diversity of attorney
767 probate referees nominated, appointed and assigned under this
768 subsection during the prior calendar year. The report shall be
769 submitted in accordance with section 11-4a.]

770 (c) Each probate magistrate and attorney probate referee shall
771 complete continuing education programs established for such
772 magistrates and referees under regulations issued by the Probate Court
773 Administrator pursuant to section 45a-77.

774 (d) No person shall be subject to the requirements of sections 45a-25
775 and 45a-26 with respect to [judges of] probate judges solely on the
776 basis of such person's nomination, appointment or assignment as a
777 probate magistrate or an attorney probate referee.

778 Sec. 10. Subsection (a) of section 45a-62 of the general statutes is
779 repealed and the following is substituted in lieu thereof (*Effective July*
780 *1, 2015*):

781 (a) There shall be a Council on Probate Judicial Conduct to consist
782 of one [judge of] probate judge elected by the [judges of probate]
783 Connecticut Probate Assembly established under section 45a-90, one
784 referee appointed by the Chief Justice from among the state referees
785 who have retired from the Supreme Court or Superior Court, one
786 person appointed by the Governor who shall be an attorney-at-law,
787 admitted to practice in this state and actively engaged in the practice of

788 law in this state for at least five years, and two persons appointed by
789 the Governor who are not attorneys-at-law. Such appointments shall
790 be made on October 1, 1975, and every four years thereafter.

791 Sec. 11. Section 45a-63 of the general statutes is repealed and the
792 following is substituted in lieu thereof (*Effective July 1, 2015*):

793 (a) The Council on Probate Judicial Conduct shall investigate every
794 written complaint brought before it alleging conduct of [judges of] a
795 probate judge which may violate any law or canon of ethics applicable
796 to [judges of] probate judges, or failure to perform properly the duties
797 of the office, or conduct prejudicial to the impartial and effective
798 administration of justice which brings the judicial office in disrepute,
799 or final conviction of a felony or of a misdemeanor involving moral
800 turpitude, or disbarment or suspension as an attorney-at-law, or the
801 wilful failure to file a financial statement or the filing of a fraudulent
802 financial statement required under section 45a-68, as amended by this
803 act.

804 (b) The council shall investigate every written complaint brought
805 before it alleging that a probate magistrate or attorney probate referee
806 appointed under section 45a-123a, as amended by this act, has, in the
807 performance of his or her duties as a probate magistrate or attorney
808 probate referee, violated any law or canon of ethics applicable to
809 probate magistrates or attorney probate referees.

810 (c) The council shall investigate every written complaint brought
811 before it alleging that a judicial candidate has, during the period of his
812 or her candidacy, or, if elected, during the period between the date of
813 the election and the start of his or her term of office as judge, violated
814 any law or canon of ethics applicable to judicial candidates. A person
815 becomes a judicial candidate as soon as he or she makes a public
816 announcement of candidacy, declares or files as a candidate with the
817 State Elections Enforcement Commission, or authorizes solicitation or
818 acceptance of contributions or support in connection with his or her
819 candidacy for probate judge.

820 (d) In making [any such] an investigation [, the council] under
821 subsection (a), (b) or (c) of this section, the council may use the services
822 of the Division of State Police within the Department of Emergency
823 Services and Public Protection, or any chief inspector, inspector or
824 investigator in the Division of Criminal Justice, or may engage the
825 services of private investigators if it deems such services necessary.

826 [(b)] (e) If (1) the complaint filed involves [the judge of probate] a
827 respondent who is a member of the council, the [judge] respondent
828 shall be disqualified from acting in his or her capacity as a council
829 member in the investigation and hearing on the matter, or (2) a [judge
830 of] probate judge who is a member of the council is unable to act for
831 any other reason, a [judge of] probate judge shall be appointed to act in
832 his stead by the president-judge of the Connecticut Probate Assembly,
833 established under section 45a-90. If a council member appointed by the
834 Chief Justice disqualifies himself or herself with regard to a matter
835 before the council, or is unable to act for any other reason, the Chief
836 Justice shall appoint a substitute member to act in connection with
837 such matter. If a council member appointed by the Governor
838 disqualifies himself or herself with regard to a matter before the
839 council, or is unable to act for any other reason, the Governor shall
840 appoint a substitute member to act in connection with such matter.
841 Any substitute shall satisfy the same criteria for selection as the
842 disqualified member.

843 [(c)] (f) The council may engage the services of legal counsel who
844 shall direct any investigation ordered by the council. Such counsel may
845 conduct the examination of witnesses, present any evidence deemed
846 relevant, cross-examine witnesses presented by any person and
847 perform such other duties as the council deems necessary for the
848 conduct of its business.

849 [(d)] (g) The council shall, not later than five days after receipt of
850 such complaint or motion of the council, notify by registered or
851 certified mail [any judge against whom such complaint is filed or
852 motion is made] the respondent and a copy of such complaint or

853 motion shall accompany such notice. The council shall also notify the
854 complainant of its receipt of such complaint not later than five days
855 thereafter. Any investigation to determine whether or not there is
856 probable cause that [judicial] misconduct under subsection (a), (b) or
857 (c) of this section has been committed shall be confidential and any
858 individual called by the council for the purpose of providing
859 information shall not disclose his or her knowledge of such
860 investigation to a third party unless the [judge] respondent requests
861 that such investigation and disclosure be open. If a respondent is
862 required to disclose a complaint pursuant to rules of procedure
863 adopted under section 45a-78, any individual to whom the disclosure
864 is made shall not disclose his or her knowledge of such investigation to
865 a third party unless the respondent requests that such investigation
866 and disclosure be open. The [judge] respondent shall have the right to
867 appear and be heard and to offer any information which may tend to
868 clear him or her of probable cause to believe that he or she has
869 committed an act of [judicial] misconduct under subsection (a), (b) or
870 (c) of this section. The [judge] respondent shall also have the right to be
871 represented by legal counsel and examine and cross-examine
872 witnesses.

873 [(e)] (h) The council shall, not later than seven business days after
874 the termination of such investigation, notify the complainant and the
875 [judge] respondent that the investigation has been terminated and
876 whether probable cause has been found that [judicial] misconduct
877 under subsection (a), (b) or (c) of this section has been committed. If
878 the council finds that [judicial] the respondent has not committed
879 misconduct under subsection (a), (b) or (c) of this section, [has not been
880 committed,] but the [judge] respondent has acted in a manner which
881 gives the appearance of impropriety or constitutes an unfavorable
882 judicial practice, the council may issue a private admonishment to the
883 [judge] respondent recommending a change in judicial conduct or
884 practice.

885 (i) As used in this section and sections 45a-64 to 45a-66, inclusive, as
886 amended by this act: (1) "Judicial candidate" means a person seeking

887 election to the office of probate judge who is not an incumbent probate
888 judge; and (2) "respondent" means a probate magistrate or attorney
889 probate referee appointed under section 45a-123a, as amended by this
890 act, a probate judge or a judicial candidate against whom a complaint
891 has been filed or motion has been made under this section.

892 Sec. 12. Section 45a-63a of the general statutes is repealed and the
893 following is substituted in lieu thereof (*Effective July 1, 2015*):

894 No complaint for [judicial] misconduct [against a judge of probate]
895 shall be brought under section 45a-63, as amended by this act, but
896 within eight years from the date the alleged [judicial] misconduct was
897 committed.

898 Sec. 13. Section 45a-64 of the general statutes is repealed and the
899 following is substituted in lieu thereof (*Effective July 1, 2015*):

900 If a preliminary investigation indicates that probable cause exists
901 that [the judge has committed an act of judicial misconduct] a
902 respondent has committed misconduct under subsection (a), (b) or (c)
903 of section 45a-63, as amended by this act, the council shall hold a
904 hearing concerning the misconduct or complaint. All hearings held
905 pursuant to this section shall be open. The council shall make a record
906 of all proceedings pursuant to this section. The council shall, not later
907 than fifteen days after the close of such hearing, publish its findings
908 together with a memorandum of its reasons therefor. [Any judge of
909 probate who is under investigation and who appears before the
910 hearing shall be entitled to counsel,] The respondent shall be entitled
911 to present evidence, and shall have the right to cross-examine
912 witnesses.

913 Sec. 14. Section 45a-65 of the general statutes is repealed and the
914 following is substituted in lieu thereof (*Effective July 1, 2015*):

915 (a) The council shall, after the hearing provided under section 45a-
916 64, as amended by this act, prepare a report of its investigation and a
917 recommendation as to whether the [judge of probate investigated]

918 respondent should be publicly admonished, publicly censured or
919 exonerated of the allegations of the complaint. [If the council finds that
920 judicial misconduct under subsection (a) of section 45a-63, has not
921 been committed, but the judge has acted in a manner which gives the
922 appearance of impropriety or constitutes an unfavorable judicial
923 practice, the council may issue a private admonishment to the judge
924 recommending a change in judicial conduct or practice.] If the council
925 finds that a respondent has not committed a violation under
926 subsection (a), (b) or (c) of section 45a-63, as amended by this act, but
927 has acted in a manner which gives the appearance of impropriety or
928 constitutes an unfavorable judicial practice, the council may issue a
929 private admonishment to the respondent recommending a change in
930 practice or judicial conduct.

931 (b) If public admonishment or public censure is recommended, the
932 chairman shall prepare and forward the admonishment or censure in
933 writing to the [judge of probate being admonished or censured]
934 respondent, signing the admonishment or censure as chairman of the
935 council. [A judge] The respondent may, within twenty days after
936 receiving notice of public admonishment or censure by the council,
937 appeal to the Supreme Court of Connecticut. A [judge] respondent
938 filing an appeal shall give notice of its filing to the council before the
939 expiration of time for filing of an appeal. The council shall, within two
940 weeks following receipt of notice of an appeal, file a finding of fact and
941 conclusions therefrom. A copy of the admonishment or censure shall
942 be furnished the Chief Justice, the Chief Court Administrator, the
943 Probate Court Administrator, the president-judge of the Connecticut
944 Probate Assembly [, the town clerk or clerk in each town in the district
945 served by such judge of probate] and the complainant. If a judge or
946 judicial candidate is the subject of the admonishment or censure, a
947 copy of the admonishment or censure shall be furnished to the town
948 clerk in each town in the judge's or judicial candidate's probate district.

949 (c) If, in the judgment of the council, the facts so warrant, it may
950 recommend [to] that (1) the House of Representatives [the institution
951 of] institute impeachment proceedings against a probate judge, or (2)

952 the Chief Justice suspend or remove a probate magistrate or attorney
953 probate referee from office.

954 (d) If the council exonerates [a judge of probate] the respondent, a
955 copy of the proceedings and report of the council shall be furnished to
956 the [judge] respondent, the Probate Court Administrator and the
957 complainant.

958 (e) Except as provided in subsections [(d) and (e)] (g) and (h) of
959 section 45a-63, as amended by this act, all decisions of the council shall
960 be public record and shall be available for inspection at the office of the
961 Probate Court Administrator.

962 Sec. 15. Section 45a-66 of the general statutes is repealed and the
963 following is substituted in lieu thereof (*Effective July 1, 2015*):

964 Any person may be compelled, by subpoena signed by competent
965 authority, to appear before the council to testify regarding any
966 complaint brought to or by the council under section 45a-63, as
967 amended by this act, and also to produce before the council, for
968 examination, any books or papers, which in the judgment of the
969 council or [any judges of probate under investigation] the respondent,
970 are relevant to the inquiry, investigation or hearing. While engaged in
971 the discharge of its duties, the council shall have the same authority
972 over witnesses as is provided in section 51-35 and may commit for
973 contempt for a period of no longer than thirty days.

974 Sec. 16. Subsections (a) and (b) of section 45a-68 of the general
975 statutes are repealed and the following is substituted in lieu thereof
976 (*Effective July 1, 2015*):

977 (a) Each [judge of a court of probate] probate judge shall file under
978 penalty of false statement, a statement of financial interests for the
979 preceding calendar year with the Council on Probate Judicial Conduct
980 established in section 45a-62, as amended by this act, on or before
981 April fifteenth next following for any year in which the probate judge
982 holds such position.

983 (b) The statement shall be on a form provided by the Council on
984 Probate Judicial Conduct and shall include the following information
985 for the preceding calendar year regarding the probate judge, his or her
986 spouse and the dependent children living in his or her household: (1)
987 The name of all businesses with which the probate judge, his or her
988 spouse or any such child is associated; (2) the category or type of all
989 sources of his or her income and that of his or her spouse or each child,
990 in excess of one thousand dollars, but amounts of income need not be
991 specified, and the names and addresses of specific clients and
992 customers who provide more than five thousand dollars of income,
993 but amounts of income need not be specified; (3) the name of each
994 security in excess of five thousand dollars at fair market value owned
995 by the probate judge or spouse or any such child or held in the name of
996 a corporation, partnership or trust for the benefit of the probate judge,
997 his or her spouse or any such child except in the case of a trust
998 established by the probate judge, spouse or child for the purpose of
999 divesting the probate judge or his or her spouse or any such child of all
1000 control and knowledge of the probate judge's, spouse's or child's assets
1001 in order to avoid a conflict of interest during the probate judge's term
1002 of office, but only the existence of such trust and the name of the
1003 trustee shall be included, and the value need not be specified; (4) all
1004 real property and its location, whether owned by the probate judge, his
1005 or her spouse or any such child or held in the name of a corporation,
1006 partnership or trust for the benefit of the probate judge, spouse or
1007 child. Each [such] probate judge shall file a disclosure of any fees or
1008 honorariums received for his or her own or his or her spouse's or
1009 child's appearance or the delivery of an address to any meeting of any
1010 organization within thirty days after receipt of the fee or honorarium.

1011 Sec. 17. Section 45a-273 of the general statutes is repealed and the
1012 following is substituted in lieu thereof (*Effective October 1, 2015*):

1013 [(a) The surviving spouse of any person who dies, or if there is no
1014 surviving spouse, any of the next of kin of such decedent, or if there is
1015 no next of kin or if such surviving spouse or next of kin refuses, then
1016 any suitable person whom the court deems to have a sufficient interest

1017 may, in lieu of filing an application for admission of a will to probate
1018 or letters of administration, file an affidavit or statement signed under
1019 penalty of false statement in the court of probate in the district in
1020 which the decedent resided, stating, if such is the case, that all debts of
1021 the decedent have been paid in the manner prescribed by section 45a-
1022 365, at least to the extent of the fair value of all of the decedent's assets,
1023 when (1) such decedent leaves property of the type described in
1024 subsection (b) of this section, and (2) the aggregate value of any such
1025 property as described in subsection (b) of this section does not exceed
1026 the sum of forty thousand dollars. In addition, such affidavit or
1027 statement shall state that the decedent either did, or did not, receive
1028 aid or care from the state, which shall also include aid or care from the
1029 Department of Veterans' Affairs, whichever is true.

1030 (b) Such property includes: (1) A deposit in any bank; (2) equity in
1031 shares in any savings and loan association, federal savings and loan
1032 association or credit union, doing business in this state; (3) corporate
1033 stock or bonds; (4) any unpaid wages due from any corporation, firm,
1034 individual, association or partnership located in this state; (5) a death
1035 benefit payable from any fraternal order or shop society or payable
1036 under any insurance policy for which the decedent failed to name a
1037 beneficiary entitled under the bylaws and regulations of such order or
1038 society or under the terms of such insurance policy to receive such
1039 death benefit; (6) other personal property, tangible or intangible,
1040 including a motor vehicle or motor vehicles and a motor boat or motor
1041 boats registered in his name; or (7) an unreleased interest in a
1042 mortgage with or without value.

1043 (c) Thereafter, except as provided in subsection (e) of this section,
1044 the judge of probate for such district shall issue a decree finding that
1045 no probate proceedings have been instituted in connection with the
1046 estate of such decedent and authorizing either the holder of such
1047 property or the registrant thereof, including the authority issuing the
1048 registration, to transfer the same or pay the amount thereof to the
1049 persons legally entitled thereto. The court of probate may issue such
1050 certificates and other documents as may be necessary to carry out the

1051 intent of this section. If the petitioner indicates in such affidavit that
1052 the assets listed in such affidavit or a portion thereof are necessary to
1053 pay the funeral director who buried such decedent or to pay debts due
1054 for the last sickness of the decedent, the court may order the payment
1055 of such assets directly to such funeral director or to those creditors to
1056 whom debts are due for the last sickness of the decedent to the extent
1057 necessary to pay their preferred claims for funeral expenses or
1058 expenses for the decedent's last sickness, or may order such assets sold
1059 and the proceeds from such sale paid directly to the funeral director or
1060 such creditors. If the petitioner indicates in such affidavit that the
1061 decedent received public assistance or institutional care from the state
1062 of Connecticut, the court shall not issue a decree until thirty days after
1063 notification to the Department of Administrative Services. Any decree
1064 issued by the court may authorize the surviving spouse or next of kin,
1065 or some suitable person whom the court deems to have a sufficient
1066 interest, to release an interest in any mortgage reported under the
1067 provisions of this section.

1068 (d) If there is no surviving spouse or next of kin of a person who
1069 dies leaving property as described in this section, the funeral director
1070 who buried such decedent or any creditor to whom a debt is due for
1071 the last sickness of the decedent may file in such court of probate an
1072 affidavit as described in this section that such funeral director or any
1073 creditor to whom a debt is due for the last sickness of the decedent has
1074 a lawful preferred claim for funeral expenses or expenses for the
1075 decedent's last sickness. Thereupon such court may, in its discretion,
1076 authorize either the holder of such property or the registrant thereof,
1077 as aforesaid, to transfer the property or pay from the property the
1078 amount of such claim, or to pay proceeds from the sale of any such
1079 assets ordered sold by the court, to such funeral director or any
1080 creditor to whom a debt is due for the last sickness of the decedent, in
1081 satisfaction of the amount of the claim of each.]

1082 (a) If the aggregate value of a decedent's solely owned tangible and
1083 intangible personal property, excluding property that passes outside of
1084 probate by operation of law, does not exceed forty thousand dollars

1085 and the decedent had no solely owned real property in this state at the
1086 time of his or her death: (1) The decedent's surviving spouse; or (2) if
1087 there is no surviving spouse, any of the decedent's next of kin; or (3) if
1088 there is no next of kin or if the surviving spouse and next of kin refuse,
1089 any person whom the court deems to have a sufficient interest in the
1090 decedent's estate, including any person or entity to whom a claim,
1091 expense or tax is due, may, in lieu of filing a petition for admission of a
1092 will to probate or letters of administration, file an affidavit signed
1093 under penalty of false statement in the Probate Court in the district in
1094 which the decedent resided.

1095 (b) An affidavit shall contain: (1) A statement whether the decedent
1096 received aid or care from the state; (2) a list of the decedent's solely
1097 owned assets, excluding assets that pass outside of probate by
1098 operation of law; and (3) a list of all claims, expenses and taxes due
1099 from the decedent's estate in the categories set forth in subdivisions (1)
1100 to (7), inclusive, of section 45a-365, which list shall indicate if any of
1101 the claims, expenses and taxes have been paid and, if so, by whom.

1102 (c) On receipt of an affidavit, the court shall send a copy of the
1103 affidavit to the Department of Administrative Services. The court shall
1104 not issue a decree until thirty days after the date on which a copy of
1105 the affidavit was sent to the department. Except as provided in this
1106 subsection, the court may act on the affidavit without notice and
1107 hearing.

1108 (d) Except as provided in subdivision (5) of subsection (f) of this
1109 section, if the court finds that no probate proceedings have been
1110 instituted in connection with the estate of the decedent, the court shall
1111 determine the persons and entities entitled to payment for claims,
1112 expenses and taxes in accordance with subsection (e) of this section
1113 and the persons entitled to distributions from the decedent's estate in
1114 accordance with subsection (f) of this section. The court shall issue a
1115 decree authorizing each holder or registrant of an asset of the decedent
1116 to: (1) Transfer the asset directly to specified persons or entities; (2) pay
1117 amounts from the asset to specified persons or entities; or (3) transfer

1118 the asset to the person filing the affidavit, to be sold and the proceeds
1119 paid to specified persons or entities. The court may issue certificates or
1120 other documents to carry out the decree. In addition, the court may
1121 authorize the person filing the affidavit to release an interest in a
1122 mortgage reported on the affidavit.

1123 (e) The court shall determine the persons and entities entitled to
1124 payment for the claims, expenses and taxes due from the estate, or
1125 reimbursement for such amounts paid on behalf of the estate, in
1126 accordance with section 45a-365 except, (1) if a decedent received aid
1127 or care from the state or received care in a state humane institution,
1128 such reimbursement shall be in accordance with section 17b-95; and (2)
1129 if a decedent is obligated to pay the decedent's cost of incarceration,
1130 such reimbursement shall be in accordance with section 18-85c. If the
1131 claims, taxes and expenses exceed the fair value of the decedent's
1132 assets, the court shall order payment in accordance with this
1133 subsection, provided the procedures for insolvent estates under
1134 sections 45a-376 to 45a-383, inclusive, shall not be required.

1135 [(e)] (f) If [an affidavit is filed under subsection (a) of this section in
1136 lieu of an application for admission of a will to probate or letters of
1137 administration and the fair value of the property of the decedent
1138 exceeds the total amount of claims, including] the fair value of the
1139 decedent's assets exceeds the total amount of claims, expenses, taxes
1140 and any amounts allowed to the family for support under section 45a-
1141 320, the court shall proceed as follows: (1) If no purported last will and
1142 testament is found, the court shall order distribution of the excess in
1143 accordance with the laws of intestate succession; (2) if the decedent left
1144 a duly executed last will and testament and the will provides for a
1145 distribution which is the same as that under the laws of intestate
1146 succession, the court shall order distribution of the excess in
1147 accordance with the laws of intestate succession; (3) if the decedent left
1148 a duly executed last will and testament and the will provides for a
1149 distribution different from that under the laws of intestate succession,
1150 and the heirs at law of such decedent sign a written waiver of their
1151 right to contest the will, the court shall order the excess to be paid in

1152 accordance with the terms of the will; (4) if the will directs a
1153 distribution different from the laws of intestate succession, and [the
1154 heirs at law do not waive their right to contest the admission of such
1155 will, the will shall be offered for probate in accordance with section
1156 45a-286. In such case, the court may issue a decree under this section
1157 only if the persons entitled to take the bequests under the will consent,
1158 in writing, to the distribution of the bequests in accordance with the
1159 laws of intestate succession. If the claims against the estate exceed the
1160 value of the property of such decedent, the claims shall be paid in
1161 accordance with the priorities set forth in section 45a-365] the persons
1162 entitled to bequests under the will consent, in writing, to the
1163 distribution of the estate in accordance with the laws of intestate
1164 succession, the court shall order distribution of the excess in
1165 accordance with the laws of intestate succession; and (5) if the will
1166 directs a distribution different from the laws of intestate succession,
1167 the heirs at law do not waive their right to contest the admission of
1168 such will, and the persons entitled to bequests under the will do not
1169 consent to the distribution of the estate in accordance with the laws of
1170 intestate succession, the court shall dismiss the affidavit and permit
1171 any party to petition for admission of the will to probate in accordance
1172 with section 45a-286. As used in this subsection, the term "will"
1173 includes any duly executed codicil thereto.

1174 [(f)] (g) Any such transfer or payment made pursuant to a decree
1175 issued under this section shall, to the extent of the amount so
1176 transferred or paid, discharge the registrant or holder of such property
1177 from liability to any person on account thereof.

1178 [(g)] (h) As a condition of such transfer or payment, the registrant or
1179 holder may require the filing of appropriate waivers, the execution of a
1180 bond of indemnity and a receipt for such transfer or payment.

1181 [(h)] (i) The authority issuing the transfer of registration shall charge a
1182 fee of three dollars for the transfer of each motor vehicle and a fee of
1183 one dollar for the transfer of each motor boat under this section.]

1184 (i) Any transfer or payment under the provisions of this section

1185 shall be exempt from taxation under the provisions of chapter 219.

1186 (j) [(1)] Any person to whom such transfer or payment has been
1187 made shall be liable for the value thereof to the Commissioner of
1188 Revenue Services for any estate, succession or transfer tax on the
1189 property transferred or payment made and to the executor or
1190 administrator of the estate of the decedent thereafter appointed.

1191 [(2) The Commissioner of Revenue Services shall be given notice by
1192 the court of probate of the issuance of any such decree upon such form
1193 as may be provided by said commissioner unless such surviving
1194 spouse or next of kin, or other suitable person whom the court deems
1195 to have a sufficient interest, files with the court of probate a sworn
1196 return provided for by chapter 216, in which event the judge of
1197 probate may incorporate in the decree a statement that the
1198 Commissioner of Revenue Services has issued a finding that no
1199 succession or transfer tax is due, or that any such tax computed by him
1200 as due has been paid. Such statement shall be conclusive evidence of
1201 the consent by the Commissioner of Revenue Services to the transfer or
1202 payment of such property as provided in this section free from any
1203 claim for such tax, notwithstanding any provision in chapter 216 to the
1204 contrary.]

1205 Sec. 18. Section 45a-7a of the general statutes is repealed and the
1206 following is substituted in lieu thereof (*Effective from passage*):

1207 [Each court of probate shall remit all fees, costs] (a) Except as
1208 provided in subsections (b) and (c) of this section, each Probate Court
1209 shall remit all fees, expenses and other income received, including, but
1210 not limited to, moneys received under sections 45a-105 to 45a-112,
1211 inclusive, to the State Treasurer to be credited to the Probate Court
1212 Administration Fund under section 45a-82.

1213 (b) Expenses paid by a town pursuant to section 45a-8 shall not be
1214 remitted to the Probate Court Administration Fund.

1215 (c) A Probate Court may hold in escrow any moneys that are paid

1216 by a person or entity in anticipation of future fees and expenses. The
1217 court shall deposit all escrow funds into a checking account in the
1218 name of the court at a financial institution, as defined in section 36a-
1219 330. When a fee or expense is charged to a person or entity that has
1220 previously paid funds into escrow, the court shall immediately remit
1221 such fee or expense to the State Treasurer. A Probate Court shall not
1222 commingle escrow funds with funds from any other source. The
1223 provisions of section 4-33 shall not apply to the management of escrow
1224 funds under this section.

1225 Sec. 19. Section 45a-85 of the general statutes is repealed and the
1226 following is substituted in lieu thereof (*Effective from passage*):

1227 (a) The Probate Court Administrator shall establish a Probate Court
1228 Budget Committee consisting of the Probate Court Administrator and
1229 two judges of probate appointed by the Connecticut Probate
1230 Assembly. The Probate Court Administrator shall serve as chairperson
1231 of the committee.

1232 (b) Not later than June 30, 2010, and annually thereafter, the
1233 committee shall establish, in accordance with the criteria established in
1234 regulations issued pursuant to subsection (b) of section 45a-77: (1) A
1235 compensation plan, which plan shall include employee benefits, for
1236 employees of the [courts of probate] Probate Courts, (2) staffing levels
1237 for each [court of probate] Probate Court, and (3) [a miscellaneous] an
1238 office budget for each [court of probate] Probate Court. Such
1239 compensation plan, staffing levels and office budgets shall be
1240 established within the expenditures and anticipated available funds in
1241 the proposed budget established pursuant to section 45a-84.

1242 (c) The Probate Court Administrator shall annually transfer to each
1243 Probate Court the amount budgeted under subsection (b) of this
1244 section for a Probate Court's office budget. The transfer shall be made
1245 from the Probate Court Administration Fund established under section
1246 45a-82. Each Probate Court shall establish and maintain a checking
1247 account in the name of the court at a financial institution, as defined in
1248 section 36a-330, to hold and manage the office budget funds. A Probate

1249 Court shall deposit all office budget funds into the account and
1250 disburse from the account all payments for expenditures permitted
1251 under the office budget. A Probate Court shall not commingle office
1252 budget funds with funds from any other source. The provisions of
1253 sections 4-33 and 4-98 shall not apply to the management of office
1254 budget funds under this section.

1255 Sec. 20. Section 17b-751a of the general statutes is repealed and the
1256 following is substituted in lieu thereof (*Effective from passage*):

1257 (a) A grandparent or other relative caregiver who is appointed a
1258 guardian of a child or children by the Superior Court or Probate Court
1259 and who is not a recipient of subsidized guardianship subsidies under
1260 section 17a-126 or foster care payments from the Department of
1261 Children and Families shall, within available appropriations, be
1262 eligible to apply for grants under the Kinship Fund and Grandparents
1263 and Relatives Respite Fund administered by the Probate Court
1264 Administrator.

1265 (b) The Probate Court Administrator may designate one or more
1266 Probate Courts to administer grants from the Kinship Fund and
1267 Grandparents and Relatives Respite Fund and may transfer grant
1268 funds to such courts at such times and in such amounts as the
1269 administrator determines necessary to ensure the efficient processing
1270 of grants from all eligible applicants. Each such court shall establish
1271 and maintain separate checking accounts to hold and manage grant
1272 funds for the Kinship Fund and the Grandparents and Relatives
1273 Respite Fund. The accounts shall be in the name of the court at a
1274 financial institution, as defined in section 36a-330. The court shall
1275 deposit into the respective accounts all grant funds transferred from
1276 the administrator and disburse from the accounts all grants approved
1277 by the court. The court shall not commingle grant funds with funds
1278 from any other source. The provisions of section 4-33 shall not apply to
1279 the management of grant funds under this section.

1280 Sec. 21. Section 45a-614 of the general statutes is repealed and the
1281 following is substituted in lieu thereof (*Effective January 1, 2016*):

1282 (a) Except as provided in subsection (b) of this section, the following
1283 persons may apply to the [court of probate] Probate Court for the
1284 district in which the minor resides for the removal as guardian of one
1285 or both parents of the minor: (1) Any adult relative of the minor,
1286 including those by blood or marriage; (2) [the court on its own motion]
1287 a person with actual physical custody of the minor at the time the
1288 petition is filed; or (3) counsel for the minor.

1289 (b) A parent may not petition for the removal of a permanent
1290 guardian appointed pursuant to section 45a-616a.

1291 Sec. 22. Section 45a-646 of the general statutes is repealed and the
1292 following is substituted in lieu thereof (*Effective January 1, 2016*):

1293 Any person may [make application to] petition the [court of
1294 probate] Probate Court in the district in which he or she resides, [or
1295 has his domicile] is domiciled or is located at the time the petition for
1296 voluntary representation is filed either for the appointment of a
1297 conservator of the person or a conservator of the estate, or both. If the
1298 [application] petition excuses bond, no bond shall be required by the
1299 court unless later requested by the respondent or unless facts are
1300 brought to the attention of the court that a bond is necessary for the
1301 protection of the respondent. Upon receipt of the [application] petition,
1302 the court shall set a time and place for hearing and shall give such
1303 notice as it may direct to the petitioner, the petitioner's spouse, if any,
1304 the Commissioner of Administrative Services, if the respondent is
1305 receiving aid or care from the state, and to other interested parties, if
1306 any. After seeing the respondent in person and hearing his or her
1307 reasons for the [application] petition and after explaining to the
1308 respondent that granting the petition will subject the respondent or
1309 respondent's property, as the case may be, to the authority of the
1310 conservator, the court may grant voluntary representation and
1311 thereupon shall appoint a conservator of the person or estate or both,
1312 and shall not make a finding that the petitioner is incapable. The
1313 conservator of the person or estate or both, shall have all the powers
1314 and duties of a conservator of the person or estate of an incapable

1315 person appointed pursuant to section 45a-650. If the respondent
1316 subsequently becomes disabled or incapable, the authority of the
1317 conservator shall not be revoked as a result of such disability or
1318 incapacity.

1319 Sec. 23. Section 45a-671 of the general statutes is repealed and the
1320 following is substituted in lieu thereof (*Effective January 1, 2016*):

1321 (a) [Within forty-five days of the filing of such application for
1322 guardianship in the Court of Probate] Not later than forty-five days
1323 after the date of filing an application for guardianship with the Probate
1324 Court, such court shall assign a time and place for hearing such
1325 application. Notwithstanding the provisions of section 45a-7, the court
1326 may hold the hearing on the application at a place within the state
1327 other than its usual courtroom if it would facilitate the presence of the
1328 respondent. Such court shall cause a citation and notice to be served
1329 upon the respondent by personal service made by a state marshal,
1330 constable or an indifferent person not less than seven days prior to the
1331 date of such hearing date.

1332 (b) The court shall direct notice by first class mail to the following:
1333 (1) The applicant; (2) the parents of the respondent; [, provided the
1334 parents are not the applicants; (2)] (3) the spouse of the respondent; [,
1335 provided the spouse is not the applicant; (3)] (4) children of the
1336 respondent, if any; (5) the siblings of the respondent or their
1337 representatives, if the respondent has no living parents; and [(4)] (6)
1338 the person in charge of the hospital, nursing home, residential facility
1339 or other institution in which the respondent may reside.

1340 [(c) The court shall order such notice as it directs to the following:
1341 (1) The applicant; and (2) the siblings of the respondent or their
1342 representatives, if the respondent has no living parents, and the spouse
1343 or children of the respondent.]

1344 [(d)] (c) The court in its discretion may order such notice as it directs
1345 to other persons having an interest in the respondent.

1346 Sec. 24. Section 47-360 of the general statutes is repealed and the
1347 following is substituted in lieu thereof (*Effective October 1, 2015*):

1348 A deed following the form entitled "Conservator's Deed", when
1349 duly executed, has the force and effect of conveying to the grantee the
1350 fee simple title of [an incapable person] a person under voluntary or
1351 involuntary conservatorship or such conservator upon an order of a
1352 [court of probate] Probate Court authorizing and directing the
1353 conservator to sell at private sale the real estate owned by the
1354 [incapable person] person under voluntary or involuntary
1355 conservatorship, with covenants that (1) the conservator has full power
1356 and authority as such conservator to sell and convey the same to the
1357 grantee, and (2) [he and his] the conservator and the conservator's
1358 successors shall warrant and defend the granted premises against all
1359 claims and demands of any person or persons claiming by or under
1360 such conservator.

1361 Sec. 25. Section 9-218 of the general statutes is repealed and the
1362 following is substituted in lieu thereof (*Effective October 1, 2015*):

1363 When there is no election of [judge of] probate judge in any district
1364 by reason of two or more having an equal and the highest number of
1365 votes, or when a new probate district is created and no provision made
1366 for the election of a judge thereof, or whenever it is shown to the
1367 Governor that a vacancy is about to exist in said office by reason of the
1368 resignation of the incumbent to take effect at a future time or by reason
1369 of constitutional limitation, or when there is a vacancy in said office,
1370 the Governor [shall] may issue writs of election directed to the town
1371 clerk or clerks or assistant town clerk or clerks within such district,
1372 ordering an election to be held on a day named therein, other than a
1373 Saturday or Sunday, to fill such vacancy or impending vacancy, and
1374 transmit the same to a state marshal. Such state marshal shall forthwith
1375 transmit them to such clerk or clerks, who, on receiving the same, shall
1376 warn elections to be held on the day appointed in such writs, in the
1377 same manner as state elections are warned. Such elections shall be
1378 organized and conducted, and the vote shall be declared and returns

1379 made, certified, directed, deposited and transmitted, in the same
 1380 manner as at a state election. The Secretary of the State, Treasurer and
 1381 Comptroller shall, within thirty days after any such election, count and
 1382 declare the votes so returned, and notice shall be given to the person
 1383 declared elected, in the same manner as is provided in the election of
 1384 [judges of] probate judges at state elections. The Secretary of the State
 1385 shall enter the returns in tabular form in books kept by him for that
 1386 purpose and present a copy of the same, with the name of, and the
 1387 total number of votes received by, each of the candidates for said
 1388 office, to the Governor within ten days thereafter. The Probate Court
 1389 Administrator shall cite a probate judge to act as a judge in the district
 1390 during any vacancy in said office in accordance with section 45a-120.

1391 Sec. 26. (NEW) (*Effective from passage*) The judge of each Probate
 1392 Court may elect to have the court serve as a passport acceptance
 1393 agency in accordance with 22 USC 211a and 22 CFR 51.22.

1394 Sec. 27. Section 45a-122 of the general statutes is repealed. (*Effective*
 1395 *October 1, 2015*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2015	45a-20
Sec. 2	October 1, 2015	17a-76
Sec. 3	October 1, 2015	17a-497
Sec. 4	October 1, 2015	19a-221(c)
Sec. 5	October 1, 2015	19a-221(e)
Sec. 6	October 1, 2015	19a-265
Sec. 7	October 1, 2015	45a-705a
Sec. 8	October 1, 2015	45a-132(a)(2)
Sec. 9	July 1, 2015	45a-123a
Sec. 10	July 1, 2015	45a-62(a)
Sec. 11	July 1, 2015	45a-63
Sec. 12	July 1, 2015	45a-63a
Sec. 13	July 1, 2015	45a-64
Sec. 14	July 1, 2015	45a-65
Sec. 15	July 1, 2015	45a-66
Sec. 16	July 1, 2015	45a-68(a) and (b)

Sec. 17	<i>October 1, 2015</i>	45a-273
Sec. 18	<i>from passage</i>	45a-7a
Sec. 19	<i>from passage</i>	45a-85
Sec. 20	<i>from passage</i>	17b-751a
Sec. 21	<i>January 1, 2016</i>	45a-614
Sec. 22	<i>January 1, 2016</i>	45a-646
Sec. 23	<i>January 1, 2016</i>	45a-671
Sec. 24	<i>October 1, 2015</i>	47-36o
Sec. 25	<i>October 1, 2015</i>	9-218
Sec. 26	<i>from passage</i>	New section
Sec. 27	<i>October 1, 2015</i>	Repealer section

Statement of Legislative Commissioners:

In Section 12, "alleged judicial misconduct" was changed to "alleged [judicial] misconduct" for consistency and in Section 16(a), "the judge holds" was changed to "the probate judge holds" for consistency.

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note**State Impact:**

Agency Affected	Fund-Effect	FY 16 \$	FY 17 \$
Probate Court	PCAF - Cost	Minimal	Minimal

Note: PCAF=Probate Court Administration Fund

Municipal Impact: None**Explanation**

The bill results in a minimal cost to probate courts by allowing additional judges to receive the per diem rate of \$250 when assigned to a three-judge panel for petitions for a writ of habeas corpus.

The bill makes various additional changes to probate court operations that do not result in a fiscal impact.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 7029*****AN ACT CONCERNING PROBATE COURT OPERATIONS.*****SUMMARY:**

This bill makes various substantive, minor, and technical changes in probate statutes. For example, the bill extends the jurisdiction of the council on probate judicial conduct to cover misconduct complaints against probate magistrates, attorney probate referees, and candidates for probate judgeships. It largely eliminates the use of three-judge panels in probate matters.

The bill makes certain changes concerning conservatorships, such as expanding the probate districts with jurisdiction over a petition for voluntary conservatorship. It allows a person with actual physical custody of a minor to apply to remove a parent as the minor's guardian. It gives the governor the discretion to call a special election to fill a probate court vacancy, rather than making it mandatory.

Among other things, the bill also:

1. eliminates a probate court administrator annual reporting requirement concerning attorney probate referees;
2. rewrites the statute on affidavits in lieu of administration for settlement of small estates;
3. makes changes concerning probate court budgetary matters, such as specifically requiring probate courts to maintain checking accounts;
4. clarifies notice requirements regarding proceedings to appoint a guardian for an adult with intellectual disability; and
5. codifies current practice by allowing probate courts to serve as

passport acceptance agencies.

EFFECTIVE DATE: October 1, 2015, unless otherwise noted below.

§§ 1-7 & 27 – THREE-JUDGE PANELS

Under current law, the probate court administrator must transfer certain matters to a three-judge panel, usually upon motion of the affected person, a party, or the judge in the case. The bill eliminates these transfers, except in certain habeas corpus matters (see below).

Specifically, it eliminates these transfers in the following probate matters:

1. an application for involuntary commitment of a child or adult to a psychiatric hospital;
2. an appeal of an isolation or quarantine order imposed by a local health director; and
3. a review of an emergency commitment order issued by a local health director, or a petition by a local health director for a judicial commitment order, for someone with active tuberculosis.

Under current law for these matters, the affected person or his or her counsel may request the transfer; the judge may also transfer the matter himself or herself, except for isolation or quarantine matters. If transferred, the commitment or confinement can only be ordered or continued if two of the judges agree.

The bill also removes the more general option for a party or the judge to request a transfer of any on-the-record probate matter to a three-judge panel.

§§ 1 & 7 – Habeas Corpus

The bill continues to provide for three-judge panels for petitions for a writ of habeas corpus challenging an involuntary conservatorship or guardianship. By law, these petitions can be brought in the Superior Court or probate court; if the latter, they must be heard by a three-

judge panel. A majority vote is needed to continue the conservatorship or guardianship.

Unlike current law, the bill allows a judge in whose district the matter is being heard, when a member of such a three-judge panel, to receive the same maximum \$250 daily rate as other judges on the panel.

Currently, an appeal to Superior Court from the three-judge probate panel's decision must be filed in the judicial district where the probate court that appointed the guardian or conservator is located. If the court is in a probate district that extends into multiple judicial districts, the bill allows the appeal to be brought in any judicial district with part of the probate district in it.

§§ 9-16 – COUNCIL ON PROBATE JUDICIAL CONDUCT

Under existing law, the council on probate judicial conduct investigates complaints alleging various types of misconduct by probate judges. The bill extends the council's jurisdiction to cover misconduct complaints against probate magistrates, attorney probate referees (see BACKGROUND), and candidates for probate judgeships.

Specifically, it requires the council to investigate written complaints it receives alleging that a probate magistrate or attorney probate referee, in performing his or her duties, violated any applicable law or canon of ethics. It also requires the council to investigate written complaints alleging that candidates to become probate judges (other than incumbents) violated any applicable law or canon of ethics (1) while a candidate or (2) if elected, during the period between the election and the start of the term.

For this purpose, a person is a candidate after (1) publicly announcing his or her candidacy, (2) declaring or filing as a candidate with the state elections enforcement commission, or (3) authorizing solicitations or accepting contributions or support for his or her candidacy.

EFFECTIVE DATE: July 1, 2015

Investigation Procedures

In general, the bill extends the council's existing procedures to the investigations of probate magistrates, attorney probate referees, and candidates for probate judgeships. For example, in conducting its investigation, the council may use the services of legal counsel or various investigators. The respondent (the subject of the complaint) has the right to (1) be heard, (2) be represented by counsel, and (3) examine and cross-examine witnesses.

As under existing law for investigations of probate judges, the council must notify the respondent within five business days of receiving the complaint. Within seven business days of completing its investigation, the council must notify the complainant and respondent as to whether it found probable cause that misconduct occurred.

Under existing law, any such probable cause investigation must be confidential, and anyone the council calls upon to provide information must not disclose his or her knowledge of the investigation to third parties unless the respondent requests an open investigation and disclosure. If the probate rules of procedure require the respondent to disclose a complaint, the bill extends this same limitation on disclosure to the person receiving that information.

As under current law, if a preliminary investigation shows probable cause that the person committed misconduct, the council must hold an open hearing and publish its findings within 15 days after the close of the hearing. The council must recommend whether the person should be publicly admonished, censured, or exonerated. The council may issue a private admonishment for certain improper behavior that does not rise to the level of misconduct.

If the council recommends a public admonishment or censure, the respondent may appeal to the state Supreme Court. Currently, a copy of the admonishment or censure must be sent to certain people, including the town clerks in the judge's probate district. The bill also

requires notice to appropriate town clerks for cases involving probate candidates but not probate magistrates or attorney probate referees.

By law, the council may recommend that the House of Representatives bring impeachment proceedings against a probate judge. The bill also allows the council to recommend that the chief justice suspend or remove from office a probate magistrate or attorney probate referee. It allows the chief justice, upon the recommendation of the council or probate court administrator, to suspend or remove a probate magistrate or attorney probate referee for reasonable cause.

§ 9 – ANNUAL REPORT ON PROBATE REFEREES

The bill eliminates the requirement that the probate court administrator annually report to the governor and the Judiciary Committee on (1) the number of attorney probate referees nominated, appointed, and assigned during the prior year and (2) their geographic, racial, and ethnic diversity.

EFFECTIVE DATE: July 1, 2015

§ 17 – AFFIDAVIT IN LIEU OF ADMINISTRATION FOR SMALL ESTATES

The bill updates the statute on expedited settlement of small estates. This procedure applies if the deceased person had no solely owned real estate and any personal property subject to probate is valued at \$40,000 or less.

Under existing law, when this statute applies, instead of filing an application for admission of a will to probate or letters of administration, the appropriate party (e.g., the surviving spouse) may file an affidavit with the probate court stating whether the decedent's debts have been paid as prescribed by law. Generally, if the appropriate party files this affidavit and no formal probate proceedings have been instituted, the court issues a decree authorizing the transfer of the property to pay any outstanding claims against the estate, with the balance going to the persons legally entitled to them (e.g., transfers under the will or the laws of intestacy).

The bill makes certain substantive changes to this process. It also makes clarifying changes and removes obsolete changes. Among other things, the bill:

1. requires the court to send a copy of the affidavit to the Department of Administrative Services in all cases, rather than only when the petitioner indicated that the decedent received public assistance or institutional care from the state;
2. specifies that this procedure may be used even when the total amount of claims, expenses, and taxes exceed the value of the decedent's estate;
3. removes the requirement for the authority transferring motor vehicles or boats under this process to charge \$3 and \$1 for each transfer, respectively;
4. removes the requirement that the probate court notify the revenue services commissioner about these decrees in some circumstances; and
5. removes specific references to claims of funeral directors or other creditors owed debts from the decedent's last sickness. (They continue to be eligible for transfers as creditors under the bill.)

§§ 18-20 – PROBATE BUDGETS AND RELATED MATTERS

The bill requires each probate court to maintain a checking account for its annually budgeted office funds, as transferred from the probate court administration fund. The court must disburse funds from the account to pay for its budgeted expenses.

It allows probate courts to hold in escrow any money paid by a person or entity in anticipation of future fees and expenses, as an exception to the general requirement that probate courts remit all fees to the state treasurer for deposit in the probate court administration fund. Under the bill, a probate court must deposit any such escrow funds in a checking account it maintains for this purpose. When the court charges a fee or expense to someone who has previously paid

funds into escrow, the court must immediately remit the amount to the state treasurer.

The bill also allows the probate court administrator to (1) designate one or more probate courts to administer grants from the kinship fund and grandparents and relatives respite fund and (2) transfer grant funds to courts as he determines necessary under the programs. Each designated court must maintain separate checking accounts for these funds and disburse funds from the accounts to pay for approved grants.

Under the bill, in each of these contexts:

1. the court must maintain the checking account in its own name, at a bank, Connecticut or federal credit union, or an out-of-state bank that has a branch in Connecticut;
2. the court must not commingle these funds with other funds; and
3. existing law's provisions for the deposit of public money (CGS § 4-33) do not apply to the management of these funds. (Among other things, those provisions set limits on the amount of public deposits in any one public depository or bank.)

The bill also specifies that probate office budget funds are not subject to existing law's requirements regarding comptroller approval of purchase orders (CGS § 4-98).

EFFECTIVE DATE: Upon passage

§ 21 – REMOVAL OF PARENT AS MINOR'S GUARDIAN

The bill allows a person with actual physical custody of a minor to apply to probate court to remove one or both parents as the minor's guardian. It removes the existing authority of the court to apply for this removal on its own motion.

Under existing law, any adult relative of a minor, or the minor's counsel, may also apply to remove a parent or parents as the guardian.

EFFECTIVE DATE: January 1, 2016

§ 22 – PETITION FOR VOLUNTARY CONSERVATORSHIP

Under current law, a person seeking a voluntary conservatorship must apply in the probate court for the district where he or she resides or is domiciled. The bill also allows the person to apply in the district where he or she is located when filing the petition. This corresponds with the law for involuntary conservatorships (CGS § 45a-648).

EFFECTIVE DATE: January 1, 2016

§ 23 – NOTICE OF PROCEEDING TO APPOINT GUARDIAN FOR ADULT WITH INTELLECTUAL DISABILITY

By law, probate courts must notify certain people of hearings to appoint a guardian of an adult with intellectual disability. Current law requires notice by first class mail to certain recipients and allows the court to direct the form of notice to others. The bill specifies that notice to all such people must be made by first class mail and makes clarifying changes.

EFFECTIVE DATE: January 1, 2016

§ 24 – CONSERVATOR'S DEED

The bill specifies that a conservator's deed may be used to convey property owned by a person under either voluntary or involuntary conservatorship, rather than an "incapable person." By law, this deed may be used if authorized by a probate court.

§ 25 – SPECIAL ELECTION TO FILL PROBATE VACANCY

The bill allows, rather than requires, the governor to call a special election to fill a probate court vacancy. It also requires the probate court administrator to choose another probate judge to temporarily fill the vacancy under existing law's procedures.

§ 26 – PASSPORT ACCEPTANCE

The bill codifies current practice by giving each probate judge the option to have his or her court serve as a passport acceptance agency,

according to federal law and regulations. Under federal regulations, state court employees meeting certain requirements may serve as passport acceptance agents, when designated by the U.S. State Department (22 CFR § 51.22).

EFFECTIVE DATE: Upon passage

BACKGROUND

Probate Magistrates and Attorney Probate Referees

Probate courts may refer certain matters, with the consent of the parties or their attorneys, to a probate magistrate or attorney probate referee. After hearing the matter, the magistrate or referee files a report of factual findings and conclusions drawn from those findings. The court can accept, modify, or reject the report.

The probate court administrator nominates individuals who qualify to be probate magistrates and attorney probate referees for the Supreme Court chief justice's consideration and appointment.

Among other requirements, a probate magistrate must be a former probate judge; an attorney probate referee must be a person licensed to practice law in Connecticut and in good standing for at least five years. Probate magistrates are paid for each day of service; attorney probate referees are unpaid (CGS §§ 45a-123 & -123a).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 43 Nay 0 (04/06/2015)